

Order

Michigan Supreme Court
Lansing, Michigan

March 8, 2006

Clifford W. Taylor,
Chief Justice

130041

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

NICOLETTE MULLER,
Plaintiff-Appellee,

v

SC: 130041
COA: 259271
Oakland CC: 03-675204-DM

CHRISTIAN MULLER,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the October 27, 2005 judgment of the Court of Appeals is considered, and it is DENIED. The Oakland Circuit Court entered an order in this case that “neither party shall have an unrelated member of the opposite sex overnight while having parenting time with the minor children.” Granted the authority to place “[r]estrictions on the presence of third parties during parenting time” under MCL 722.27a(8)(c), the trial court based its decision on the “best interests” of the children, giving particular emphasis to plaintiff’s (the mother’s) moral objections to cohabitation, when defendant (the father) claimed that he personally held no opinion on that concern. The trial court did not base its decision, in whole or in part, on MCL 750.335, which prohibits “lewd or lascivious cohabitation.” Therefore, this case does not implicate the constitutionality of MCL 750.335, but rather only raises the question whether the trial court abused its discretion in restricting the presence of unrelated members of the opposite sex during parenting time. *Brown v Loveman*, 260 Mich App 576, 591-592 (2004). The Court of Appeals found no abuse of discretion by the trial court, and we affirm this determination.

KELLY, J., would remand this case to the trial court for further proceedings.



s0301

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 8, 2006

Corbin R. Davis

Clerk